

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-238

Filed: 1 August 2017

Harnett County, No. 14JT98

IN THE MATTER OF: M.G.S.

Appeal by respondent-father from order entered 9 December 2016 by Judge Joy A. Jones in Harnett County District Court. Heard in the Court of Appeals 13 July 2017.

Elizabeth Myrick Boone for petitioner-appellee mother.

Edward Eldred, Attorney at Law, PLLC, for respondent-appellant father.

BERGER, Judge.

Respondent-father appeals from an order terminating his parental rights to the minor child M.G.S. (“Meg”).¹ We affirm.

Factual and Procedural Background

¹ Pseudonyms are used throughout to protect the identity of the children pursuant to N.C.R. App. P. 3.1(b), and for ease of reading.

Meg's mother ("Petitioner-mother") and Respondent-father married in 2007 and then divorced in 2012. Meg was born in September 2008 and lived with Petitioner-mother thereafter in Dunn, North Carolina.

In November 2008, Respondent-father was convicted in Massachusetts of crimes he committed in 2005 against his stepchild ("Helen"), including assault and battery upon a child causing bodily injury, assault and battery upon a child causing substantial bodily injury, and assault and battery by means of a dangerous weapon. He was sentenced to twelve to fifteen years imprisonment in Massachusetts state prison and will remain incarcerated for the next several years.

On July 17, 2014, Petitioner-mother filed a petition to terminate Respondent-father's parental rights to Meg. After a hearing on July 8, 2016, the trial court found that grounds for terminating Respondent-father's parental rights existed under N.C. Gen. Stat. § 7B-1111(a)(1), (7), and (9) (2015). The court further determined that termination of Respondent-father's parental rights was in Meg's best interest. Respondent-father timely appeals from this order, challenging each of the three grounds for termination of parental rights ("TPR") found by the trial court under N.C. Gen. Stat. § 7B-1111(a).

Standard of Review

This Court reviews an adjudication of grounds to terminate parental rights under N.C. Gen. Stat. § 7B-1111(a) to "determine whether the findings of fact are

supported by clear, cogent and convincing evidence, and whether the findings support the court's conclusions of law. If there is competent evidence, the findings of the trial court are binding on appeal." *In re B.S.O.*, 234 N.C. App. 706, 707-08, 760 S.E.2d 59, 62 (2014) (citations and quotation marks omitted). "We review conclusions of law *de novo*." *Id.* at 708, 760 S.E.2d at 62 (citation omitted).

Analysis

As an initial matter, it must be noted that the existence of "any single ground [under N.C. Gen. Stat. § 7B-1111(a)] . . . is sufficient to support an order terminating parental rights." *Id.* (citation and quotation marks omitted). Accordingly, if the trial court "properly found one ground for termination under [Subsection] 7B-1111(a), [this Court] need not review the remaining grounds." *Id.* (citation omitted).

Here, the trial court adjudicated the existence of grounds for TPR under N.C. Gen. Stat. § 7B-1111(a)(9), which requires Petitioner-mother to prove that "[t]he parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home." N.C. Gen. Stat. § 7B-1111(a)(9) (2015). "Termination under [Subsection] 7B-1111(a)(9) thus necessitates findings regarding two separate elements: (1) involuntary termination of parental rights as to another child, and (2) inability or unwillingness to establish a safe home." *In re L.A.B.*, 178 N.C. App. 295, 299, 631 S.E.2d 61, 64 (2006).

Respondent-father does not contest the trial court's determination that he is unable to establish a safe home for Meg. *See generally Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) ("Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal." (citations omitted)). Thus, on appeal, Respondent-father only challenges the trial court's finding that his parental rights to another child, "Carl," were involuntarily terminated by a court of competent jurisdiction in Massachusetts. Respondent-father contends "there was no evidence" to support this finding. However, during Meg's termination hearing, Respondent-father testified that his parental rights to Carl were terminated by the Department of Social Services ("DSS") after Respondent-father failed to follow his DSS plan in Massachusetts. Respondent-father further testified that there were numerous hearings prior to the TPR and that the order was affirmed on appeal.

Given his testimony that his parental rights to Carl were terminated "by a Department of Social Services," Respondent-father argues the trial court erred in finding that his rights were terminated "by a court of competent jurisdiction" under Subsection 7B-1111(a)(9). However, we find that the trial court's findings are supported by clear, cogent, and convincing evidence.

"When the court acts as factfinder, it is for the court to determine which of differing reasonable inferences should be drawn from the evidence." *State v. Major*,

84 N.C. App. 421, 426, 352 S.E.2d 862, 865 (1987). In this case, we believe the trial court reasonably construed Respondent-father's testimony to mean that "a Department of Social Services" in Massachusetts successfully pursued the termination of his parental rights to Carl through the applicable legal process, which included "numerous hearings" as well as an "appeal" by Respondent-father.

We take judicial notice that Massachusetts law assigns the role of terminating parental rights to the courts. *See* Mass. Gen. Laws ch. 119, §§ 24, 26, 29B (2017); Mass. Gen. Laws ch. 210, § 3 (2017); *Petition of the Dep't of Social Servs. to Dispense with Consent to Adoption*, 392 Mass. 696, 697, 467 N.E.2d 861, 863 (1984) (discussing constitutional requirements of "cases involving the termination of parental rights, which is the effect of granting a petition under G. L. c. 210, § 3").

Thus, Respondent-father's testimony supports a reasonable inference that his parental rights to Carl were terminated by a court and, absent proof to the contrary, by a court of competent jurisdiction. *See generally In re N.T.*, 368 N.C. 705, 707, 782 S.E.2d 502, 503-04 (2016) ("Nothing else appearing, we apply the *prima facie* presumption of rightful jurisdiction which arises from the fact that a court of general jurisdiction has acted in the matter." (citation and quotation marks omitted)).

Conclusion

The facts found by the trial court establish grounds for terminating Respondent-father's parental rights to Meg pursuant to Subsection 7B-1111(a)(9).

IN RE: M.G.S.

Opinion of the Court

Having determined that this ground for terminating parental rights was supported by clear, cogent, and convincing evidence, we need not address the remaining grounds found by the court. *See B.S.O.*, 234 N.C. App. at 708, 760 S.E.2d at 62. As Respondent-father does not separately contest the trial court's disposition, *see* N.C. Gen. Stat. § 7B-1110(a) (2015), we affirm the termination order.

AFFIRMED.

Judges ELMORE and TYSON concur.

Report per Rule 30(e).